

Notice of Allowability

Application No.

10/062,760

Examiner

Jessica R Baxter

Applicant(s)

MCGUCKIN ET AL.

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment of 26 May 2004.
2. ☒ The allowed claim(s) is/are 1-5 and 8-16.
3. ☒ The drawings filed on 03 May 2002 and 05 November 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Allowable Subject Matter

1. Claims 1-5 and 8-16 are allowed.
2. The following is an examiner's statement of reasons for allowance:

The prior art of record fails to disclose or suggest a system for stapling tissue comprising a first jaw moving mechanism and a second jaw moving mechanism including a substantially C-shaped clamp received around the first and second jaws. This limitation, in combination with all of the limitations of claim 1, makes the claim allowable over the prior art.

The prior art of record fails to disclose or suggest a system for stapling tissue comprising a first jaw moving mechanism and a second jaw moving mechanism, wherein the second jaw moving mechanism includes an I-beam member a web of which extends through corresponding slots in the first and second jaws with a portion of the I- beam member being received within the first jaw and a second portion of the I-beam member being received within the second jaw. This limitation, in combination with all of the limitations of claim 13, makes the claim allowable over the prior art.

The prior art of record fails to disclose or suggest a system for stapling tissue comprising a first jaw moving mechanism and a second jaw moving mechanism, wherein the second jaw moving mechanism includes an I-beam member a web of which extends through corresponding slots in the first and second jaws with a portion of the I- beam member being received within the first jaw and a second portion of the I-beam member being received within the second jaw, and wherein the I-beam member serves as the staple pusher and wherein a first portion of the I-beam member includes a camming surface which sequentially

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contacts each of a plurality of staple pushers as the I-beam member is moved through the corresponding slots in the first and second jaws. This limitation, in combination with all of the limitations of claim 14, makes the claim allowable over the prior art.

The prior art of record fails to disclose or suggest a system for stapling tissue comprising a first jaw moving mechanism and a second jaw moving mechanism, wherein the second jaw moving mechanism includes an I-beam member a web of which extends through corresponding slots in the first and second jaws with a portion of the I-beam member being received within the first jaw and a second portion of the I-beam member being received within the second jaw, and wherein the I-beam member includes a tissue cutting blade extending from the web between the first and second portions of the I-beam member. This limitation, in combination with all of the limitations of claim 15, makes the claim allowable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica R Baxter whose telephone number is 703-305-4069. The examiner can normally be reached on M-F 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, McDermott or Shaver can be reached on 703-308-0858. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

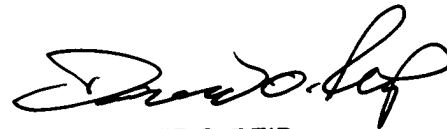
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jessica R Baxter
Examiner
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Handwritten signature of Jessica R. Baxter, with the initials "JRB" written below it.



Handwritten signature of David O. Reip.

DAVID O. REIP
PRIMARY EXAMINER